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September 22, 2011

VIA E-MAIL [REDACTED]
[REDACTED]

Board of Directors of ACRI, ACRC,
ACRF¹

To the Board Members of the American Civil Rights Institute, the American Civil Rights Coalition and the American Civil Rights Foundation:

I represent Jennifer Gratz, who earlier today resigned as Director of Research for the American Civil Rights Institute (ACRI), and as Director of State and Local Initiatives for the American Civil Rights Coalition (ACRC), and from any other position she might hold with ACRI or any affiliated organization. Ms. Gratz has been a loyal employee of ACRI and ACRC for years, but having viewed firsthand the operation of these organizations under the leadership and control of Ward Connerly, she has concluded that she must resign. Ms. Gratz remains committed to the cause of equal treatment under the law, and the principle that an individual should be judged as an individual, not as a member of a group. Unfortunately, she has realized that ACRI and ACRC have not been adequate stewards of the resources the donors entrusted to the organizations to educate the public on racial and gender based preference and advocate for its elimination. Because these organizations do not appear to have internal procedures in place for reporting possible compliance or ethics issues, I am writing to inform the Boards of several issues that Ms. Gratz is aware of, which are worthy of investigation and oversight of the Boards.

Ms. Gratz has strong reason to believe that there are significant issues that the Boards should investigate regarding the management of its organizations. As evidenced by payroll irregularities, the organizations have been in financial crisis since March 2010. As the Boards must be aware, Mr. Connerly is compensated generously – recently filed tax documents indicate an annual compensation of well over \$1 million a year (for an organization that raises about \$2 million annually). Independent of the sheer amount of this compensation (which raises its own issues for the Boards to consider), it appears that

¹ Attached as Exhibit A.

Mr. Connerly's stewardship of ACRI has, at a minimum, raised questions about whether the organization's mission has been subordinated to Mr. Connerly's personal interests. Whether or not this is proven to be the case, the organizations are in crisis and Board involvement is essential at this time.

First, Ms. Gratz is concerned that since approximately June 2011, the organizations have ceased almost entirely doing work related to their charitable mission. Nearly all the organizations' resources and energy have been devoted to supporting administrative costs and responding to separate investigations being conducted by the IRS and the California Office of the Attorney General into Mr. Connerly's salary, as well as other financial and ethical irregularities at the organizations. It should be noted that Mr. Connerly had indicated to Ms. Gratz on a few occasions that the IRS and Office of the Attorney General were investigating ACRI due to the organization purportedly engaging in advocacy as a 501(c)3. However, on a call in July 2011 with ACRI's attorneys, counsel indicated in no uncertain terms that the investigations were mainly due to Mr. Connerly's excessive compensation and allegations of other ethical irregularities. Further, they indicated that the cross-over of the 501(c)3 tasks into advocacy was a comparatively minor issue.

Ms. Gratz is concerned that the problems that have come to light are the direct result of deeper irregularities about which the Boards may be unaware. First and foremost, several ACRI employees and contractors have had personal or non-professional relationships with Mr. Connerly that may not have been disclosed to the Board and that hamper the ability of the organization to perform its charitable mission. It can be shown that of the eight current salaried employees at least five of these employees are family members, have been longtime family friends, or have had non-professional and/or personal relationships with Mr. Connerly. As but one recent example: despite the absence of projects or work furthering the organization's mission over the last six months, no members of the staff have been laid off. Ms. Gratz fears that this is because of Mr. Connerly's personal interests rather than the legitimate needs of the organization.

Several individual contracts highlight the irregularities that are allowing funds to be used for purposes other than achieving organizational goals. [REDACTED], an employee since about January 2008, has a mother in federal prison, with whom Mr. Connerly has a personal relationship. One of [REDACTED]'s friends, [REDACTED], contracted with ACRI in March of 2009 (without submitting a resume) to conduct fundraising work at \$20 per hour for 20 hours per week. After over fifteen months of work, [REDACTED] asked about a contract extension, which was not granted because Mr. Connerly did not think she had the requisite skill set to fulfill her job responsibilities. As another example, on January 10, 2011, Ms. Gratz became aware that ACRI was entering into a contract with [REDACTED], a longtime employee of Mr. Connerly's for-profit organization Connerly & Associates. [REDACTED] was given a contract to work for a maximum of 120 hours at \$60 per hour to create a report about Oklahoma. Ms. Gratz was told that his qualifications for this work were that he was born in the state. The report that [REDACTED] submitted on March 29 consisted mainly of printouts from Wikipedia. The Board should interview each current

employee, past employees, and review contracts for services by ACRI, leases, and other transactions, as it appears that many are not “arm’s length” but benefit Mr. Connerly either directly or indirectly.

Second, Ms. Gratz is concerned that Mr. Connerly’s salary is taking precedence over payment of salary to staff members, several of whom are single mothers and in need of regular income. On September 6, 2011 the staff was informed via email that the organization *may* not meet its September 9 payroll for the pay period of August 22 to September 2, 2011. In fact, no salary has been paid to the staff since August 26, 2011 (on August 26, payroll was met for the pay period ending on August 19). At a time when reassurance from ACRI’s leader is more than necessary, Mr. Connerly has been absent from the office, but for the rare fifteen minute drop-in, and has avoided talking to the staff. Prior to March 12, 2010, employee salary was consistently paid through direct deposit. From that date through the present, salary has been paid seemingly at random through either physical check or direct deposit. On at least four separate occasions during that period, salary payments have been delayed or missed. On one additional occasion the staff was notified that payroll may be delayed; however, it was distributed through a physical check on time. Ms. Gratz believes that earlier in the year Mr. Connerly arranged to pay himself weekly and without the same week delay as staff to put him ahead of the staff’s bi-weekly schedule. There was discussion about offering this same payroll arrangement to other employees, however, it was never offered. Ms. Gratz believes that Mr. Connerly continued to receive his salary through the beginning of September, and Ms. Gratz believes that if Mr. Connerly had reduced his salary to a level commensurate with the organizations’ current revenue when the organizations financial difficulties began in March 2010, funds would have been available to pay the staff.

Third, Ms. Gratz is concerned about the fact that neither ACRI nor ACRC filed federal income tax returns for several years, which resulted in ACRC recently losing its tax exempt status. The returns were not filed, Ms. Gratz speculates, to keep at least partially from public scrutiny the extent of Mr. Connerly’s salary amidst the organizations dire financial circumstances. For example, a recent filing disclosed that Mr. Connerly’s compensation from ACRI in 2009 amounted to over 58% of the organization’s total revenue that year. While Mr. Connerly’s actual salary is of little concern to Ms. Gratz, it is disconcerting to her that his compensation prevents the organization from funding programs in furtherance of its goals and that the organization may have jeopardized its tax exempt status and its relationship with donors solely to disguise the extent of Mr. Connerly’s salary.

Fourth, Ms. Gratz is concerned that there are inadequate financial controls in place to provide oversight for the salary advances Mr. Connerly receives, or for payments made to him for consulting fees, speaking engagements, travel advances, and other cash transactions. For years, Ms. Gratz was aware of the allegations that Mr. Connerly received excessive compensation. She presumed that the issue was politically motivated and raised solely by opponents of the organization’s mission. It has come to her attention, however, that there may be some merit to the allegations of financial

impropriety. Additionally, Mr. Connerly appears to have engaged in other transactions (payment for “unused” vacation, etc.) that may have benefitted him beyond a level that the Boards may be aware of.

Fifth, there have also been significant irregularities with respect to payment of employment-related taxes, including knowingly issuing W-2s that did not accurately reflect the amount actually paid to employees (which will require employees to file amended returns and accrue interest and penalties). Although these irregularities partly result from disruptions in revenue, they also appear to be designed to facilitate Mr. Connerly’s high salary. At the time of these events, Ms. Gratz was informed that legal counsel had “signed off” on this approach, but she now fears that this may not have been the case and suggests the Boards make sure that all employment tax and other issues have been resolved appropriately.

In sum, as the financial condition of ACRI and related entities has deteriorated, a lack of oversight has allowed Mr. Connerly to continue to pay himself and use staff resources in ways that may be unrelated to the organization’s mission. Given the financial crisis in the organizations, Ms. Gratz urges the Board to prioritize ACRI’s spending and ensure that Mr. Connerly’s interests do not come before the urgent needs of the organizations.

Please be aware of how difficult reporting these matters to the Boards is for Ms. Gratz. She joined ACRI and ACRC to further a principle that she ardently believes in, to create substantive improvements in the law and raise public awareness concerning racial and gender based preference in the government and academia. It pains her that the guiding force of ACRI and ACRC has exhibited erratic personal behavior that has hindered the advancement of the organization’s mission. Mr. Connerly has discouraged Ms. Gratz from speaking to anyone concerning the issues addressed in this letter and has in fact stated on two separate occasions (in July and August 2011) that if Ms. Gratz decided to pursue other interests without his blessing that he would be “attending her funeral.” He has encouraged other employees to stay silent as well, even to the Boards, thereby preventing the organizational change necessary to achieve the goals the donors gave their resources to see fulfilled.

Ms. Gratz remains proud of her accomplishments and the accomplishments of ACRI and ACRC. She is grateful for the opportunity to have served these organizations and the donors. Because Ms. Gratz so values the mission these organizations seek to accomplish, she has chosen to resign and raise these issues.

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Ms. Gratz is willing to discuss this matter should the Boards wish to do so, although any contact with Ms. Gratz in this regard should be made through me as her counsel. In addition, Ms. Gratz will cooperate with any government investigation of the organizations that is ongoing. While Ms. Gratz can no longer be a part of ACRI, she remains committed to its mission and wishes the Board well as it navigates through this period.

Sincerely,



Robert N. Driscoll